

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF

Debtor.

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities LLC,

Plaintiff,

v.

HSBC BANK PLC, HSBC BANK USA,
N.A., HSBC USA, INC., HSBC PRIVATE
BANK (SUISSE) S.A., HSBC SECURITIES
SERVICES (LUXEMBOURG) S.A., HSBC
BANK BERMUDA LIMITED, HSBC
INSTITUTIONAL TRUST SERVICES
(BERMUDA) LIMITED, and HSBC
SECURITIES SERVICES (BERMUDA)
LIMITED.

Defendants.

Adv. Pro. No. 09-01364 (CGM)

IRVING H. PICARD, Trustee for the
Liquidation of Bernard L. Madoff Investment
Securities LLC,

Plaintiff,

v.

SICO LIMITED,

Defendant.

Adv. Pro. No. 12-01005 (CGM)

**STIPULATION AND ORDER REGARDING FILING OF
SECOND AMENDED COMPLAINT**

WHEREAS, these Adversary Proceedings were commenced with the filing of complaints by Irving H. Picard as Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC (the “Trustee”) on July 15, 2009 in Adversary Proceeding No. 09-01364 and on January 5, 2012 in Adversary Proceeding No. 12-01005;

WHEREAS, pursuant to a stipulation dated September 27, 2010, the Trustee filed an Amended Complaint in Adversary Proceeding No. 09-01364;

WHEREAS, on April 25, 2013, the Trustee filed an Amended Complaint in Adversary Proceeding No. 12-01005;

WHEREAS, the Trustee has given notice to the undersigned counsel for HSBC Bank plc, HSBC Bank USA, N.A., HSBC USA, Inc., HSBC Private Bank (Suisse) S.A., HSBC Securities Services (Luxembourg) S.A., HSBC Bank Bermuda Limited, HSBC Institutional Trust Services (Bermuda) Limited, HSBC Securities Services (Bermuda) Limited, and SICO Limited (the “HSBC Defendants”) that he wishes to consolidate Adversary Proceeding No. 09-01354 and Adversary Proceeding No. 12-01005 and file a further amended complaint against the

HSBC Defendants;

WHEREAS, HSBC USA, Inc. has not previously been named or served in connection with this Adversary Proceeding;

WHEREAS, counsel for the Trustee and counsel for the HSBC Defendants have conferred regarding the conduct of proceedings with respect to the proposed Second Amended Complaint;

NOW, THEREFORE, SUBJECT TO THE ORDER OF THE COURT, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

1. HSBC USA, Inc. waives service of the summons and complaint pursuant to Federal Rule of Civil Procedure 4(d);
2. The claims previously asserted against HSBC Securities Services (Luxembourg) S.A., HSBC Bank Bermuda Limited, HSBC Institutional Trust Services (Bermuda) Limited, and HSBC Securities Services (Bermuda) Limited in this action are dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii);
3. For the avoidance of doubt, such dismissal does not relieve HSBC Securities Services (Luxembourg) S.A., HSBC Bank Bermuda Limited, HSBC Institutional Trust Services (Bermuda) Limited, and HSBC Securities Services (Bermuda) Limited of their obligation to maintain any litigation hold in place, or otherwise continue to preserve documents that would be subject to discovery in this Proceeding.
4. Adversary Proceeding No. 12-01005 (against SICO Limited) shall be consolidated into Adversary Proceeding No. 09-1364, and the Clerk shall close docket number 12-01005.

5. Pursuant to Federal Rule of Civil Procedure 15(a)(2), the HSBC Defendants consent to the filing of the proposed Second Amended Complaint, subject to a reservation of all other rights and defenses.

6. For the avoidance of doubt, among all other reserved defenses, the HSBC Defendants reserve the right to argue that any and all claims and allegations asserted in the proposed Second Amended Complaint do not relate back to the date of any prior pleading, and the Trustee reserves the right to argue that any and all claims and allegations do relate back.

7. The Trustee shall file the proposed Second Amended Complaint by **December 29, 2023**;

8. The HSBC Defendants will answer the Second Amended Complaint, without first filing motions under Rule 12 of the Federal Rules of Civil Procedure, on or before **February 2, 2024**.

9. The Parties shall conduct a conference pursuant to Federal Rule of Civil Procedure 26(f) on or before **February 9, 2024**.

10. The Parties shall file a Proposed Scheduling Order pursuant to Federal Rule of Civil Procedure 16(b) on or before **March 1, 2024**.

11. HSBC Bank plc, HSBC Private Bank (Suisse) S.A., and SICO Ltd. (the “Foreign HSBC Defendants”) contend that this Court lacks personal jurisdiction over them with respect to the claims asserted in the Second Amended Complaint. The Foreign HSBC Defendants reserve their defense based on personal jurisdiction, which for the avoidance of doubt shall not be waived by the filing of an Answer and participation in this litigation, provided the defense is properly pled by the Foreign HSBC Defendants. The Trustee reserves all rights to

oppose such a defense.

12. This stipulation is without prejudice to the rights, claims or defenses of any party, all of which are expressly reserved.

Date: December 22, 2023
New York, New York

/s/ Nowell D. Bamberger

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Trust Services (Bermuda) Limited, and HSBC
Securities Services (Bermuda) Limited*

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities
LLC and the Chapter 7 Estate of Bernard L.
Madoff*

SO ORDERED.

**Dated: December 26, 2023
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
U.S. Bankruptcy Judge**